



**NCTA**

NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

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EX PARTE

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Commercial Availability of Navigation Devices (CS Docket No. 97-80)

Dear Ms. Dortch:

This is to notify you that on March 12, 2003, Mark Coblitz, Comcast's Senior Vice President of Strategic Planning, Mike Hammer and James Casserly of Willkie, Farr, & Gallagher, William Check, NCTA Vice President for Science & Technology, and I met with the following Media Bureau staff: William Johnson, Deputy Chief, Rick Chessen, Associate Bureau Chief, John Wong, Division Chief, Engineering Division, Michael Perko, Chief, Office of Communications & Industry Information, Steven Broeckaert, Deputy Chief, Policy Division, Michael Lance, Deputy Chief, Engineering Division, Tom Horan, Senior Legal Advisor, and Susan Mort, Attorney Advisor. We discussed issues in the above-referenced proceeding. In particular, Mr. Coblitz responded to questions about the relationship of the recent "plug & play" agreement between cable companies and consumer electronics ("CE") manufacturers and the Commission's rule prohibiting cable operators from providing set-top boxes with embedded security as of January 1, 2005.

Mr. Coblitz explained that retaining the current prohibition would impose substantial additional costs on consumers while achieving no significant consumer benefits. Although the prospective cost of PODs and Host interfaces is a matter of dispute, even by the lower cost estimates supplied by the Consumer Electronics Retailers Coalition the ultimate cost to consumers of the integration ban annually would run to well over a hundred million dollars. Portability of set-top boxes purchased at retail is the primary benefit resulting from having POD-enabled devices. The additional costs imposed on cable operators and customers from requiring that all cable operator supplied set-top boxes be POD-enabled would produce no benefit whatsoever to the many cable subscribers who would choose to lease boxes rather than obtain them at retail. Since those boxes are leased and are returned when a cable customer moves, there is no consumer benefit from those boxes being portable.

The staff asked about the effect eliminating the ban would have on continuing negotiations between cable and CE companies on an agreement for two-way POD-enabled digital products with integrated set-top functionality. It was suggested that the ban needed to remain in place to “hold cable’s feet to the fire” to reach an agreement on two-way POD-enabled devices that would work on cable systems. Mr. Coblitz explained that circumstances have changed markedly since the ban on integrated set-top boxes was adopted in 1998. In 1998, the cable and CE industries did not have a particularly harmonious working relationship and it was thought the ban would assure the CE industry that their POD-enabled devices would work on cable systems. Over the intervening period, competition from DBS has grown significantly, and, as a result, cable companies have recognized the competitive necessity of establishing much stronger relationships with consumer electronics manufacturers and retailers.

Perhaps most significantly, cable companies have demonstrated, through their actions, that they are meaningfully committed to promoting the retail availability of set-top boxes and, perhaps more important, integrated television receivers that incorporate the POD host interface. Top cable executives spent innumerable hours and resources on the “plug & play” agreement concluded in December, 2002. They are similarly devoting efforts in working on the current negotiations over two-way products. That should provide assurances to the CE community – and the Commission – that even if the 2005 ban is eliminated and operators need not provide leased set-top boxes with separated security, cable operators are committed to getting two-way POD-enabled DTV products into the market as quickly as possible. Cable is in the business of providing services, not equipment. The more products available at retail that can receive those services, especially cable’s current (and to be developed) two-way services, and the more visible cable’s retail presence, the better it is for cable in the fight for customers with other distribution systems. PODs have become essential, not only to address the original security concerns, but also to facilitate cable’s retail strategy.

Moreover, as described in the cover letter the cable company and CE manufacturer signatories submitted to the Commission transmitting the “plug & play” agreement, under the technical rules submitted for Commission adoption, all digital cable systems “must support devices with the POD-Host Interface built to SCTE standards, [and] supply compatible separate security ‘POD’ modules to customers....” *Those standards support both one-way and two-way PODs.* As a result, should such retail devices not be supported as required by such an FCC rule, affected CE manufacturers have a ready channel for complaint at the FCC. But, as Mr. Coblitz explained, the situation should not come to such a pass. As a business matter, cable operators must make sure DTV devices made at retail provide the services their customers have paid for and want. The first day a cable customer cannot receive a particular cable service on a POD-enabled retail product may be the last day that person is a cable customer. Therefore, for both legal and business reasons, the 2005 ban may be eliminated without fear that cable operators will not support POD-enabled devices in the marketplace.

Mr. Coblitz also discussed the adverse effects of the 2005 integration ban on future innovation. He noted the benefits expected to be achieved from development of a new “multi-stream” POD, and the way in which retaining the 2005 ban would force industry to divert energies away from the multi-stream POD and instead purchase millions of “J2K-plus” PODs which would not have the advanced capabilities of the multi-stream POD. He emphasized that development and deployment of a multi-stream POD does not alter the industry’s commitment to support the J2K-plus POD. However, if there is an immediate requirement to order and build PODs for deployment in 2005 and thereafter, then operators must require production of set-top boxes under the existing two-way specifications.

That will have at least two adverse consequences. First, in the one-way agreement, the uni-directional Host requirements were heavily negotiated and amended to meet CE concerns. If this experience is a guide, we expect at least some in the CE community will wish to have similar negotiations with respect to two-way Host requirements. Such modifications would affect the manufacture of both POD-enabled set-top boxes and DTV sets with integrated set-top box functionality. Both the cable and CE industries are trying to create a world of interoperable devices. Requiring cable operators to build under current Host two-way specifications in order to deploy leased boxes in 2005 with substantial costs to the consumer and no off-setting benefit risks, at best, wasting valuable time and resources, and, at worst, prejudging the outcome of these discussions which have proven so useful in the past.

Second, Mr. Coblitz expressed concern that keeping the 2005 ban in place would force cable operators and their suppliers to devote substantial resources to building and deploying the current PODs (and set-top boxes to accommodate that POD) when their desire is to focus their efforts and volume purchases on the new advanced PODs. *At the same time, of course, operators will continue to buy, deploy and support PODs built to the current specifications to accommodate devices in the market built to current interface specifications.*

In short, Mr. Coblitz explained that retention of the current ban on integrated boxes would needlessly saddle consumers with enormous costs and disrupt ongoing innovation, based on speculative and anachronistic perceptions of cable operators' attitudes toward retail availability of navigation devices and functionalities.

Respectfully submitted,

**/s/ Neal M. Goldberg**

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NMG:gml

cc: William Johnson, Deputy Chief  
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